

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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DONALD WILBURN,

Petitioner,

v.

CASE NO. 2:09-CV-11022

GARY CAPELLO,

Respondent.

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**ORDER DENYING PETITIONER' S MOTION  
FOR APPOINTMENT OF COUNSEL**

This matter is before the court on Petitioner's motion for appointment of qualified counsel. Petitioner states that he is unable to afford counsel, that the issues in his case are complex, and that he has limited legal knowledge. Petitioner has submitted his habeas petition as well as an amended petition, but Respondent has not yet filed an answer to those pleadings or the state court record.

Petitioner has no absolute right to be represented by counsel on federal habeas review. See *Abdur-Rahman v. Mich. Dept. of Corrs.*, 65 F.3d 489, 492 (6th Cir. 1995); see also *Wright v. West*, 505 U.S. 277, 293 (1992) (citing *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987)). "[A]ppointment of counsel in a civil case is . . . a matter within the discretion of the court. It is a privilege and not a right." *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (quoting *United States v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965)). Petitioner has submitted his pleadings in support of his claims. Neither

an evidentiary hearing nor discovery are necessary at this time, and the interests of justice do not require appointment of counsel. See 18 U.S.C. § 3006A(a)(2)(B); 28 U.S.C. § 2254; R. Governing Sec. 2254 Cases 6(a) and 8(c). Accordingly,

IT IS ORDERED that Petitioner's motion for appointment of counsel [Dkt. # 7] is DENIED. The court will bear in mind Petitioner's request if, upon further review of the pleadings and the state court record, the court determines that appointment of counsel is necessary. Petitioner need not file an additional motion concerning this issue.

S/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: September 29, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, September 29, 2009, by electronic and/or ordinary mail.

S/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522